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August 25, 1994

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AUG 25 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Ex Parte Presentation -- MM Docket No. 92-265

Dear Mr. Caton:

You are hereby advised that on this date the attached written ex parte presentations were made in the above-referenced proceeding to the following Commission personnel:

Chairman Hundt
Commissioner Quello
Commissioner Barrett
Commissioner Chong
Commissioner Ness
William E. Kennard, Esquire
Meredith Jones, Esquire
William H. Johnson, Esquire
James W. Olson, Esquire
Diane L. Hofbauer, Esquire
Amy Zoslov, Esquire

The presentations follow meetings held between representatives of United States Satellite Broadcasting Company, Inc. ("USSB") and the signatories of the written presentations. The presentations submitted herewith, letters from members of the U.S. Senate and House of Representatives, support USSB's "Opposition to Petition for Reconsideration of the National Rural

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FLETCHER, HEALD & HILDRETH

Mr. William F. Caton
August 25, 1994
Page 2

Telecommunications Cooperative," submitted in MM Docket No. 92-265, on July 14, 1993. It is believed that the originals of the letters from Senator Paul Simon and Congressman Henry A. Waxman were sent directly to Chairman Hundt by their offices.

An original and one copy of this letter and the attached presentations are being filed. If additional copies of this filing are required, USSB will supply them immediately upon request.

Should any questions arise concerning this matter, or should any additional information be necessary or desired, please communicate with this office.

Very truly yours,

FLETCHER, HEALD & HILDRETH

Patricia A. Mahoney
Patricia A. Mahoney
Counsel for United States
Satellite Broadcasting
Company, Inc.

PAM/dlr

cc: Chairman Reed E. Hundt
Commissioner James H. Quello
Commissioner Andrew C. Barrett
Commissioner Rachelle B. Chong
Commissioner Susan Ness
William E. Kennard, Esquire
Meredith Jones, Esquire
William H. Johnson, Esquire
James W. Olson, Esquire
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Amy Zoslov, Esquire

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AUG 25 1994

Congress of the United States

House of Representatives

Washington, DC 20515

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

August 24, 1994

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Chairman Hundt:

We are aware of the letter sent to you on June 15, 1994 by several Members of Congress, addressing Section 19, the program access provision, of the Cable Act of 1992. We believe that letter fundamentally misstates the goal of Section 19, which was intended only to address exclusive practices by cable operators. Non-cable operations, such as direct broadcast satellite (DBS) are not covered by Section 19.

As the title of the Cable Act clearly indicates, the legislation specifically was designed to address the problems suffered by the public as a result of cable's monopolistic practices. Many of our constituents complained about cable operator's abuses of their power.

A key provision of the Act is Section 19, which addresses cable programming practices. It precludes cable operators from entering into exclusive contracts with vertically integrated cable programmers in areas not served by cable, if the FCC determines that such contracts are in the public interest. We submit, however, that a search of the entire Cable Act and its legislative history will confirm that only program contracts involving cable operators were intended to fall within the province of Section 19 and the Act as a whole.


Moreover, a fundamental purpose intended to be served by Section 19 is the promotion of technologies that can compete with cable operations. In this regard, competitive exclusivity in DBS operations is essential if a non-cable operator with a small number of channels is to be able to compete with another operator offering more, but different channels. Denying competitive exclusivity could have the perverse effect of creating a monopoly within DBS by limiting an operator's ability to grow, compete with cable, and offer unique services to the customer.


We believe the Commission's initial conclusions on programming exclusivity -- that Section 19 applies only to cable operators -- were correct, and the rules adopted by the FCC thus properly implement Section 19. We understand the Attorneys General of 45 states and the District of Columbia, the U.S. Department of Justice, and Judge John Sprizzo, U.S. District Court, Southern District of New York, all agree that the Cable Act of 1992 does not prohibit exclusive contracts by DBS providers and programmers.

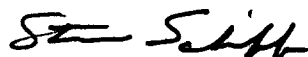
We have attached material which provides graphic illustration of the fact that the FCC's present rules will make extensive programming available to DBS customers.

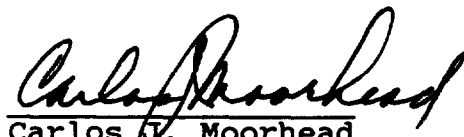
We appreciate your consideration of our views.


Sincerely,



Harris W. Fawell
Member of Congress



Philip M. Crane
Member of Congress

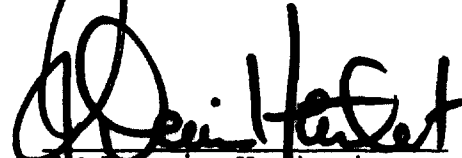

Steven H. Schiff
Member of Congress


Carlos J. Moorhead
Member of Congress


Scott L. Klug
Member of Congress


Cardiss Collins
Member of Congress


Jack Fields
Member of Congress


J. Dennis Hastert
Member of Congress

DSSTTM

(Digital Satellite System)

DirecTv Programming

Basic Channels

A&E
Black Entertainment
Television
Cartoon Network
Country Music Television
CNN
CNN International
CNBC
Court TV
C-Span
C-Span 2
Discovery
E!
ESPN
Family Channel
Headline News
The Learning Channel
Much Music
SCI-Fi Channel
Shopping
Travel Channel
The Weather Channel
TBS-Superstation
The Nashville Network
Turner Classic Movies
TNT
USA Network

Premium Channels

The Disney Channel East/West
Encore
Encore 2/Love Stories
Encore 3/Western
Encore 4/Tweens
Encore 5/Mystery
Encore 6/Action
Encore 7/True Stories & Drama
Playboy Channel

Pay-Per-View Movies

*Approximately 40+ Channels
with current hit films from:*
Paramount Pictures
Columbia Pictures
Sony Pictures Classics
TriStar Pictures
Turner MGM Film Library
Universal Pictures
Touchstone Pictures
Hollywood Pictures
Walt Disney Pictures
Warner Bros
Miramax Films

Pay-Per-View Sports

Up to 40 channels with
events expected from all
major sports leagues

Special Interest

Golf Channel
CBC Newsworld International
Physicians Television Network
Bloomberg Direct Financial
Music Choice (Digital Audio)
TRIO
Movie Preview Channel
Sports Preview Channel
Consumer Information

***List includes all DirecTv programming announced as of June 28, 1994**

DSS™

(Digital Satellite System)

USSB Programming

Basic Channels (6)

Lifetime
Nickelodeon/Nick at Nite
MTV
VH-1
Comedy Central
All News Channel

Premium Channels (14)

HBO East/West
HBO 2 East/West
HBO 3
Showtime East/West
Showtime 2
The Movie Channel East/West
Cinemax East/West
Cinemax 2
FLIX

***Includes all channels with which USSB will start. Expected future compression improvements should allow for additional channels/services. Current plans include public service, free advertiser supported services and special interest programming**

United States Senate

WASHINGTON, DC 20510

August 24, 1994

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Chairman Hundt:

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Moreover, a fundamental purpose intended to be served by Section 19 is the promotion of technologies that can compete with cable operations. In this regard, competitive exclusivity in DBS operations is essential if a non-cable operator with a small number of channels is to be able to compete with another operator offering more, but different channels. Denying competitive exclusivity could have the perverse effect of creating a monopoly within DBS by limiting an operator's ability to grow, compete with cable, and offer unique services to the customer.

We believe the Commission's initial conclusions on programming exclusivity -- that Section 19 applies only to cable operators -- were correct, and the rules adopted by the FCC thus properly implement Section 19. We understand the Attorneys General of 45 states and the District of Columbia, the U.S. Department of Justice, and Judge John Sprizzo, U.S. District Court, Southern District of New York, all agree that the Cable Act of 1992 does not prohibit exclusive contracts by DBS providers and programmers.

We have attached material which provides graphic illustration of the fact that the FCC's present rules will make extensive programming available to DBS customers.

We appreciate your consideration of our views.

Sincerely,



Bob Packwood
U.S. Senate



Dan Coats
U.S. Senate

DSSTTM

(Digital Satellite System)

DirecTv Programming

Basic Channels

A&E
Black Entertainment
Television
Cartoon Network
Country Music Television
CNN
CNN International
CNBC
Court TV
C-Span
C-Span 2
Discovery
E!
ESPN
Family Channel
Headline News
The Learning Channel
Much Music
SCI-Fi Channel
Shopping
Travel Channel
The Weather Channel
TBS-Superstation
The Nashville Network
Turner Classic Movies
TNT
USA Network

Premium Channels

The Disney Channel East/West
Encore
Encore 2/Love Stories
Encore 3/Western
Encore 4/Tweens
Encore 5/Mystery
Encore 6/Action
Encore 7/True Stories & Drama
Playboy Channel

Pay-Per-View Movies

*Approximately 40+ Channels
with current hit films from:*
Paramount Pictures
Columbia Pictures
Sony Pictures Classics
TriStar Pictures
Turner MGM Film Library
Universal Pictures
Touchstone Pictures
Hollywood Pictures
Walt Disney Pictures
Warner Bros
Miramax Films

Pay-Per-View Sports

Up to 40 channels with
events expected from all
major sports leagues

Special Interest

Golf Channel
CBC Newsworld International
Physicians Television Network
Bloomberg Direct Financial
Music Choice (Digital Audio)
TRIO
Movie Preview Channel
Sports Preview Channel
Consumer Information

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FLIX

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(213) 851-1040

Congress of the United States
House of Representatives
Washington, DC 20515-0529

HENRY A. WAXMAN
29TH DISTRICT, CALIFORNIA

August 16, 1994

ENERGY AND COMMERCE
CHAIRMAN, SUBCOMMITTEE ON
HEALTH AND THE ENVIRONMENT
GOVERNMENT OPERATIONS
PHILIP M. SCHLUG
ADMINISTRATIVE ASSISTANT

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Chairman:

I am writing in support of the Federal Communications Commission's conclusion in its "First Report and Order" in MM Docket No. 92.265 regarding exclusive program contracts with noncable distributors.


To foster healthy competition in program distribution services, Section 19 of the 1992 Cable Act forbids exclusive arrangements between cable operators and vertically integrated programmers in areas not served by cable. This section of the law was drafted to address the anticompetitive practices of cable companies, and not potential exclusive agreements by noncable distributors.

Although exclusive contracts can present dangers in the marketplace, they do not automatically pose an inherent danger to diversity and competition and, in certain circumstances, can be employed positively as a guard against monopolistic practices. Without the ability to distinguish their programming from larger competitors, small rivals would not survive and consumers would suffer the effects of the resulting lack of competition. Such an outcome would directly contradict the express purposes for which the 1992 Cable Act was passed. Selectively approved exclusive contracts could mitigate this impact. If these contracts are authorized, however, great care must be taken to ensure against long-term anti-competitive effects.

Thank you for your consideration of my views on this matter.

With kind regards, I am

Sincerely,


HENRY A. WAXMAN
Member of Congress

United States Senate

WASHINGTON, DC 20510-1302

August 19, 1994

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Dear Reed:

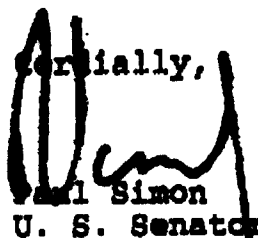
I have been hearing from people on both sides of the controversy regarding Section 19 of the Cable Act.

I am probably the least informed person writing to you on this.

I have looked over the correspondence and discussed this twice with my staff. It seems to me the enclosed letter from Jeff Bingaman to you merits serious consideration.

I have worked with Jeff on a great many things, and I know he does not enter these things lightly.

I wish you the best.

Sincerely,

Paul Simon
U. S. Senator

PS/jw

Enc.

COPY

United States Senate

July 6, 1994

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Chairman Hundt:

I am aware of the letter sent to you on June 15, 1994 by several Members of Congress, addressing Section 19, the program access provision, of the Cable Act of 1992. I believe that letter fundamentally misstates the goal of Section 19, which was intended only to address exclusive practices by cable operators. Non-cable operations, such as direct broadcast satellite (DBS), are not covered by Section 19.

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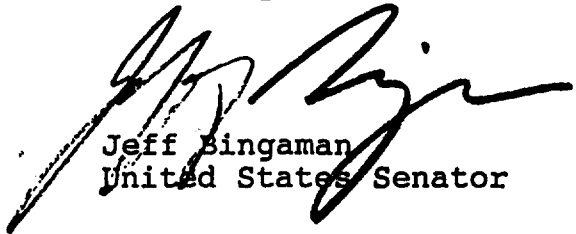
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Page 2

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I appreciate your consideration of these views.

Sincerely,



Jeff Bingaman
United States Senator

JB/mss